



राजपत्र, हिमाचल प्रदेश (असाधारण)

हिमाचल प्रदेश राज्यशासन द्वारा प्रकाशित

शिमला, बीरवार, 14 मार्च, 1991/23 फाल्गुन, 1912

हिमाचल प्रदेश सरकार

हिमाचल प्रदेश विधान सभा सचिवालय

अधिसूचना

शिमला-४, 14 मार्च, 1991

संख्या 1-15/91-वि० एस०—हिमाचल प्रदेश विधान सभा के प्रक्रिया एवं कार्य संचालन नियम, 1973 के नियम 135 के अन्तर्गत, “हिमाचल प्रदेश साधारण विक्रय-कर (संशोधन विधेयक, 1991 (1991 का विधेयक संख्यांक 8))”

जो दिनांक 14 मार्च, 1991 को हिमाचल प्रदेश विधान सभा में पुरस्थापित हो गया है, सर्वसाधारण की सुचनार्थ राजपत्र में मुद्रित करने हेतु प्रेषित किया जाता है।

लक्ष्मण सिंह,
सचिव।

1991 का विधेयक संख्यांक 8.

हिमाचल प्रदेश साधारण विक्रय-कर (संशोधन) विधेयक, 1991

(विधान सभा में पुरस्थापित रूप में)

हिमाचल प्रदेश जनरल सेल्ज टैक्स एक्ट, 1968 (1968 का 24) में और संशोधन करने के लिए विधेयक।

भारत गणराज्य के व्यालीसवे वर्ष में हिमाचल प्रदेश विधान सभा द्वारा निम्नलिखित रूप में यह अधिनियमित हो :—

1. (1) इस अधिनियम का संक्षिप्त नाम हिमाचल प्रदेश साधारण विक्रय-कर (संशोधन) अधिनियम, 1991 है। संक्षिप्त नाम और प्रारम्भ।

(2) यह अप्रैल, 1991 के प्रथम दिन से प्रवृत्त होगा।

1968 का 24 2. हिमाचल प्रदेश जनरल सेल्ज टैक्स एक्ट, 1968 (जिसे इसमें इसके पश्चात् मूल अधिनियम कहा गया है) की धारा 2 में,— धारा 2 का संशोधन।

- (क) खण्ड (p) के अन्त में आए चिन्ह “ ; ” के स्थान पर “ . ” चिन्ह रखा जाएगा ; और
- (ख) खण्ड (q) का लोप किया जाएगा।

3. मूल अधिनियम की धारा 4 की उप-धारा (6) के खण्ड (e) में आए अंक “1,00,000” के स्थान पर “3,00,000” अंक रखे जाएंगे। धारा 4 का संशोधन।

4. मूल अधिनियम की धारा 6 की उप-धारा (1) में,—

- (क) शब्द “seven” के स्थान पर “ten” शब्द रखा जाएगा ; और
- (ख) प्रथम परन्तुक में आए अंकों और शब्दों “10 paise” और “of 25 paise” के स्थान पर क्रमशः “15 paise” और “not exceeding 30 paise” अंक और शब्द रखे जाएंगे।

5. मूल अधिनियम की धारा 6-A का इसके शीर्षक सहित लोप किया जाएगा। धारा 6-A का लोप।

6. मूल अधिनियम की धारा 8 की उप-धारा (1) के अन्त में आए चिन्ह “ . ” के स्थान पर “ : ” चिन्ह रखा जाएगा और तत्पश्चात्, निम्नलिखित परन्तुक जोड़ा जाएगा, अर्थात् :— धारा 8 का संशोधन।

“Provided that nothing herein shall apply to a dealer who deals exclusively in such goods on which tax has been proved to have been levied at the first stage of sale thereof under sub-section (2) of section

6 and that such a dealer is not the first selling dealer in respect of those goods in the State of Himachal Pradesh :

Provided further that the dealer referred to in the preceding proviso maintains proper accounts in respect of his business and possesses and furnishes to the Assessing Authority, the certificate referred to in sub-section (2) of section 6, in the prescribed manner, to the effect that the tax on the sale of such goods has been paid at the first stage of sale thereof."

धारा 12 का 7. मूल अधिनियम की धारा 12 में,—
संशोधन ।

- (क) उप-धारा (6) में, शब्दों "a sum" के पश्चात् किन्तु "one and half times" शब्दों से पूर्व आए शब्दों "not exceeding" के स्थान पर "which shall not be less than ten percentum, but which shall not exceed" शब्द और चिन्ह रखे जाएंगे; और
- (ख) उप-धारा (7) में आए शब्दों "ten percentum" के स्थान पर "twenty five percentum" शब्द रखे जाएंगे ।

धारा 14 का 8. मूल अधिनियम की धारा 14 की उप-धारा (6) में आए शब्दों "not exceeding" के स्थान पर "which shall not be less than fifteen percentum, but which shall not exceed" शब्द और चिन्ह रखे जाएंगे ।

धारा 17-A का 9. मूल अधिनियम की धारा 17-A की उप-धारा (1) के स्थान पर निम्नलिखित उप-धारा रखी जाएगी, अर्थात् :—

"(1) If any dealer fails to pay the amount of tax due from him under this Act, except to the extent mentioned in sub-section (2), he shall, in addition to the amount of tax, be liable to pay simple interest on the amount of tax due and payable by him at the rate of one percentum per month, from the date immediately following the last date on which the dealer should have either filed the return or paid the tax under this Act, for a period of one month and thereafter at the rate of one and a half percentum per month till the default continues.",

धारा 19 का 10. मूल अधिनियम की धारा 19 की उप-धारा (2) के खण्ड (क) में आए चिन्ह और शब्दों "the purchase tax and the surcharge" के स्थान पर "and the purchase tax" शब्द रखे जाएंगे ।

धारा 22 का 11. मूल अधिनियम की धारा 22 में,—
संशोधन ।

- (क) उप-धारा (2), (3), (4), (5), (6), (7), (8), (9) और (11) में सभी स्थानों पर जहां वे आए हैं "goods vehicle" शब्दों के स्थान पर "goods carriage" शब्द रखे जाएंगे;

(ख) उपधारा (4) में, विद्यमान प्रथम परन्तुक में शब्दों “two thousand rupees or twenty percentum of the value of the goods whichever is greater” के स्थान पर “twenty-five percentum of the value of the goods but which shall not be less than fifteen percentum of the value of the goods” शब्द रखे जाएँगे;

(ग) उपधारा (6) और (7) में शब्दों और चिन्ह “one thousand rupees or twenty percentum of the value of the goods, whichever is greater” के स्थान पर “twenty-five percentum of the value of the goods but which shall not be less than fifteen percentum of the value of the goods” शब्द रखे जाएँगे ; और

(घ) उपधारा (11) में विद्यमान स्पष्टीकरण-I के स्थान पर निम्ननिखित स्पष्टीकरण रखा जाएगा, अर्थात् :—

“Explanation-I.—In this section the expression “goods carriage” has the same meaning as is assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988, but does not include road transport plying in collaboration with rail transport”.

12. मूल अधिनियम की धारा 22 के पश्चात् निम्ननिखित नई धारा 22-A अन्तः स्थापित की जाएगी, अर्थात् :—

नई धारा
22-A का
अन्तःस्थापन।

“22-A. Registration and submission of returns by carrier of goods, agent of the transport company and booking agency.—(1) For carrying out the purposes of section 22, every carrier of goods, agent of transport company and booking agency having a place of business in the State of Himachal Pradesh and transporting or clearing or forwarding goods on behalf of a dealer, shall be required to obtain a certificate of registration, in the prescribed manner, from the Assessing Authority of the area in which it has a place of business, on payment of such fee as may be prescribed and on furnishing of a security to the satisfaction of the said Authority in the manner as may be prescribed.

(2) Every agency, referred to in sub-section (1), shall submit to the Assessing Authority such returns of the goods transported, cleared or forwarded by it, by such dates and in such manner as may be prescribed.

(3) The Assessing Authority shall have the powers to call for and examine the books of accounts, documents and other record in possession of such agency with a view to verifying the correctness of returns submitted and the compliance to the requirements of provisions of section 22.”

13. मूल अधिनियम की धारा 40 की उपधारा (2) में,—

धारा 40 का
संशोधन।

(क) खण्ड (d) के पश्चात् नया खण्ड (dd) अन्तःस्थापित किया जाएगा, अर्थात् :—

“(dd) the manner in which the certificate referred to in the second proviso to sub section (1) of section 8 shall be furnished ;” और

(ख) खण्ड (n) के पश्चात् निम्नलिखित नवा खण्ड (nn) अन्तःस्थापित किया जाएगा, अर्थात् :—

"(nn) the manner of obtaining and granting the registration certificate, fee to be charged for the same and the manner in which the security is to be furnished under sub-section (1) and also the dates and the manner of furnishing returns under sub-section (2) of section 22-A."

उद्देश्यों और कारणों का कथन

राज्य सरकार विक्रय कर विधि और प्रक्रिया को सरल करने और राजस्व पर प्रतिकूल प्रभाव डाले बिना, व्यवहारी द्वारा अनुभव की गई विभिन्न कठिनाइयों को दूर करने के लिए वचनबद्ध है। इसे उद्देश्य को पूरा करने के लिए सरकार ने जनवरी, 1991 के प्रथम दिन से मध्य वस्तुओं पर प्रथम अवस्था पर ही कर लगाने का विनियन्त्रण किया है। प्रथम अवस्था पर कर उद्गङ्खीत करने की प्रणाली को पूर्ण रूप से अंगीकृत करने पर उन व्यवहारियों को, जो केवल ऐसी वस्तुओं का विक्रय करते हैं जिन के बारे में यह साबित हो जाता है कि वे पहले से ही विक्रय कर के अवधीन हैं, रजिस्ट्रीकृत करना अपेक्षित नहीं होगा क्योंकि उन द्वारा कोई भी कर देय नहीं होगा। इसके अतिरिक्त गणना को सरल बनाने के लिए, विक्रय कर पर अधिभार के उद्घाटन को जिसके कारण दो विभिन्न खातों का रखा जाना आवश्यक है, विक्रय कर के साथ विलय करना और विभिन्न विक्रय कर दरों को अनकलतः संशोधित करना जिससे राजस्व में सीमांत वृद्धि हो सके, प्रस्तावित है। छाटे व्यवहारियों को राहत देने के लिए, कराधेय माला की सीमा को एक लाख रुपये से बढ़ा कर तीन लाख हप्ते प्रतिवर्ष किया जाना है। इसके अलावा, विद्यमान उपबन्धों में व्याज में, प्रोद्भवन के विषय में संदिग्धतः को दूर करना और न्यायिक निर्णयों के अनुरूप सुस्पष्ट उपबन्ध करना अपेक्षित है। बेर्इमान परिवाहक जो विक्रय कर के अपवंचन में शामिल होते हैं या साठ-गांठ करते हैं, उन्हें अधिनियम के अधीन रजिस्ट्रीकरणीय बना कर, लेखादायी बनाना भी अपेक्षित है। इसके अलावा, राजस्व का निवाध प्रवाह मूलिण्यत करने, कर के अपवंचन की जांच और विक्रय कर संदाय और विवरणियां फाइल करने से संबद्ध उपबन्धों के भंग के निवारण के लिए न्यनतम शास्ति के लिए उपबन्ध करके और अधिनियम में पहले से ही उपवंधित न्यनतम और अधिकतम शास्ति की सीमा को बढ़ा कर, शास्तियों को अधिक भयांपरतकारी बनाना आवश्यक है।

यह विधेयक उपरोक्त उद्देश्यों की पूर्ति के लिए है।

शिमला :

मार्च 14, 1991.

नगीन चन्द्र पाल,
प्रभारी मन्त्री।

वित्तीय ज्ञापन

विधेयक के खण्ड 4 के अधिनियमित होने पर कोई अतिरिक्त खर्च किए बिना, राज कोष में लगभग तीन लाख रुपये की अतिरिक्त आय प्राप्त होगी।

प्रत्यायोजित विधान सम्बन्धी ज्ञापन

खण्ड 8 और 12 के साथ पठित विधेयक का खण्ड 13, अधिनियम की धारा 8 का उप-धारा (1) के द्वितीय परन्तुक में निर्दिष्ट प्रमाण-पत्र जारी करने की रीति, रजिस्ट्रीकरण प्रमाण-पत्र अभिप्राप्त करने और देने की रीति, उसके लिए प्रभारित की जाने वाली फीस, वह रीति जिस में उप-धारा (1) के अधीन प्रतिभूती जाएगी और अधिनियम की धारा 22-A की उप-धारा (2) के अधीन विवरणी देने की रीति भी विहीन करने के लिए, नियम बनाने के लिए राज्य सरकार को सशक्त करता है। यह प्रत्यायोजन आवश्यक और सामान्य प्रकार का है।

भारत के संविधान के अनुच्छेद 207 के अधीन राज्यपाल की सिफारिश

[ब्रावकारी एवं कराधान विभाग नस्ति संख्या ई. एक्स. एन. एफ. (ii)-1/91]

हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश साधारण विक्रय-कर (संशोधन) विधेयक, 1991 की विषय-वस्तु के बारे में सूचित किए जाने के अन्वात, भारत के संविधान के अनुच्छेद 207 के अधीन, विधेयक को विधान सभा में पुरस्थापित करने और उस पर विचार करने की सिफारिश करते हैं।

AUTHORITATIVE ENGLISH TEXT

Bill No. 8 of 1991.

THE HIMACHAL PRADESH GENERAL SALES TAX (AMENDMENT) BILL, 1991

(AS INTRODUCED IN THE LEGISLATIVE ASSEMBLY)

A

BILL

further to amend the Himachal Pradesh General Sales Tax Act, 1968 (Act No. 24 of 1968).

BE it enacted by the Legislative Assembly of Himachal Pradesh in the Forty-second Year of Republic of India as follows:—

1. (1) This Act may be called the Himachal Pradesh General Sales Tax (Amendment) Act, 1991.

Short title and commencement.

(2) It shall come into force with effect from 1st day of April, 1991.

Amendment of section 2.

2. In section 2 of the Himachal Pradesh General Sales Tax Act, 1968 (hereinafter referred to as the principal Act),—

(a) in clause (p), for the sign “;” occurring at the end, the sign “.” shall be substituted ; and
 (b) clause (q) shall be omitted.

Amendment of section 4.

3. In clause (e) of sub-section (6) of section 4 of the principal Act, for the figures “1,00,000”, the figures “3,00,000” shall be substituted.

4. In section 6 of the principal Act, in sub-section (1),—

Amendment of section 6.

(a) for the word “seven”, the word “ten” shall be substituted ; and
 (b) in the first proviso, for the figures and words “10 paise” and “of 25 paise”, the figures and words “15 paise” and “not exceeding 30 paise” shall, respectively, be substituted.

Omission of section 6-A.

5. Section 6-A of the principal Act, along with its heading, shall be omitted.

Amendment of section 8.

6. In sub-section (1) of section 8 of the principal Act, for the sign “.” occurring at the end, the sign “;” shall be substituted and thereafter, the following provisos shall be added, namely:—

“Provided that nothing herein shall apply to a dealer who deals exclusively in such goods on which tax has been proved to have been levied at the first stage of the sale thereof under sub-section (2) of section 6 and that such a dealer is not the first selling dealer in respect of those goods in the State of Himachal Pradesh :

Provided further that the dealer referred to in the preceding proviso maintains proper accounts in respect of his business and possesses and furnishes to the Assessing Authority, the certificate referred

to in sub-section (2) of section 6, in the prescribed manner, to the effect that the tax on the sales of such goods has been paid at the first stage of sale thereof.”.

Amendment
of section
12.

7. In section 12 of the principal Act,—

- (a) in sub-section (6), for the words “not exceeding”, occurring after the words “a sum” but before the words “one and a half times”, the words and sign “which shall not be less than ten percentum, but which shall not exceed” shall be substituted ; and
- (b) in sub-section (7), for the words “ten percentum”, the words “twenty-five percentum”, shall be substituted.

Amendment
of section
14.

8. In sub-section (6) of section 14 of the principal Act, for the words “not exceeding”, the words and sign “which shall not be less than fifteen percentum, but which shall not exceed” shall be substituted.

Amendment
of section
17-A.

9. For sub-section (1) of section 17-A of the principal Act, the following shall be substituted, namely:—

“(1) If any dealer fails to pay the amount of tax due from him under this Act except to the extent mentioned in sub-section (2), he shall, in addition to the amount of tax, be liable to pay simple interest on the amount of tax due and payable by him at the rate of one percentum per month, from the date immediately following the last date on which the dealer should have either filed the return or paid the tax under this Act, for a period of one month and thereafter at the rate of one and a half percentum per month till the default continues.”.

Amendment
of section
19.

10. In clause (a) of sub-section (2) of section 19 of the principal Act, for the sign and the words “the purchase tax and the surcharge”, the words “and the purchase tax” shall be substituted.

Amendment
of section
22.

11. In section 22 of the principal Act,—

- (a) in sub-sections (2), (3), (4), (5), (6), (7), (8), (9) and (11) for the words “goods vehicle”, at all places wherever they occur, the words “goods carriage” shall be substituted;
- (b) in sub-section (4), in the existing first proviso, for the words “two thousand rupees or twenty percentum of the value of the goods whichever is greater”, the words “twenty-five percentum of the value of the goods but which shall not be less than fifteen percentum of the value of the goods” shall be substituted;
- (c) in sub-sections (6) and (7), for the words and sign “one thousand rupees or twenty percentum of the value of the goods, whichever is greater”, the words “twenty-five percentum of the value of the goods but which shall not be less than fifteen percentum of the value of the goods” shall be substituted ; and
- (d) in sub-section (11), for the existing Explanation-I, the following shall be substituted, namely:—

“Explanation-I.—In this section the expression “goods carriage” has the same meaning as is assigned to it in clause (14) of section 2

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of the Motor Vehicles Act, 1988, but does not include road transport plying in collaboration with rail transport.”.

12. After section 22 of the principal Act, the following new section 22-A shall be inserted, namely:—

Insertion
of new sec-
tion 22-A.

“22-A. Registration and submission of returns by carrier of goods agent of the transport company and booking agency.—(1) For carrying out the purposes of section 22, every carrier of goods, agent of transport company and booking agency having a place of business in the State of Himachal Pradesh and transporting or clearing or forwarding goods on behalf of a dealer, shall be required to obtain a certificate of registration, in the prescribed manner, from the Assessing Authority of the area in which it has a place of business, on payment of such fee as may be prescribed and on furnishing of a security to the satisfaction of the said authority in the manner as may be prescribed.

- (2) Every agency, referred to in sub-section (1), shall submit to the Assessing Authority such returns of the goods transported, cleared or forwarded by it, by such dates and in such manner as may be prescribed.
- (3) The Assessing Authority shall have the powers to call for and examine the books of accounts, documents and other record in possession of such agency with a view to verifying the correctness of returns submitted and the compliance to the requirements of provisions of section 22.”

13. In sub-section (2) of section 40 of the principal Act,—

Amendment
of section
40.

(a) after clause (d), the following new clause (dd), shall be inserted, namely:—

“(dd) the manner in which the certificate referred to in the second proviso to sub-section (1) of section 8 shall be furnished ; and

(b) after clause (n), the following new clause (nn) shall be inserted, namely:—

“(nn) the manner of obtaining and granting the registration certificate, fee to be charged for the same and the manner in which the security is to be furnished under sub-section (1) and also the dates and the manner of furnishing returns under sub-section (2) of section 22-A.”.

STATEMENT OF OBJECTS AND REASONS

The State Government is committed to simplify sales tax law and procedures and to remove various difficulties experienced by dealers without adversely affecting the revenue. To accomplish this objective, the Government decided to tax all goods only at the first stage *w.e.f.* 1st January, 1991. With complete switch-over to the system of first stage levy, those dealers who sell only such goods as are proved to have been already subjected to sales tax would not be required to be registered, as no tax would be payable by them. Further, to simplify accounting, the levy on account of surcharge on sales tax, which necessitates maintenance of two separate accounts, is proposed to be merged with sales tax and to suitably revise various sales tax rates, which may result into marginal increase in the revenue. In order to afford relief to small dealers, the limit of taxable quantum is to be enhanced from rupees 1,00,000 to rupees 3,00,000 per annum. In addition, the ambiguity in the existing provision regarding accrual of interest requires to be dispelled and the provision made explicit in conformity with judicial pronouncements. Unscrupulous transporters who either indulge or collude in evasion of sales tax also require to be made accountable by making them registerable under the Act. Besides this, for ensuring smooth flow of revenue, checking evasion of tax and preventing breach of provisions relating to payment of sales tax and filing of returns, it is essential to make punishments more deterrent by providing for minimum penalty and enhancing the limits of minimum and maximum penalty already provided in the Act. This has necessitated the amendments in the Himachal Pradesh General Sales Tax Act, 1968.

This Bill seeks to achieve the aforesaid objectives.

SHIMLA:
The 14th March, 1991.

NAGIN CHANDER PAL,
Minister-in-charge.

FINANCIAL MEMORANDUM

Clause 4 of the Bill when enacted will yield rupees three lakhs approximately annually as additional income to the State exchequer without involving any extra expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 13, read with clauses 8 and 12, of the Bill seek to empower the State Government to make rules prescribing the manner in which the certificate referred to in the second proviso to sub-section (1) of section 8 of the Act to be issued, the manner of obtaining and granting the registration certificate, fee to be charged for the same, the manner in which the security is to be furnished under sub-section (1) and also the manner of furnishing returns under sub-section (2) of section 22-A of the Act. These delegations are essential and normal in character.

RECOMMENDATIONS OF THE GOVERNOR UNDER ARTICLE 207 OF THE CONSTITUTION OF INDIA

[File No. EXN-F (11)-1/91-Excise and Taxation Department]

The Governor of Himachal Pradesh, after having been informed of the subject matter of the Himachal Pradesh General Sales Tax (Amendment) Bill, 1991, recommends under Article 207 of the Constitution of India, the introduction and consideration of the Bill in the Legislative Assembly.